

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CARL WEBER

Plaintiff

vs.

JIHAD UHURU

Defendant

CASE NO.: 08 Civ 0983 (JGK)

REQUEST TO ENTER DEFAULT

(ECF Case)

TO: Clerk of the Court
United States District Court for the
Southern District of New York

Dear Clerk:

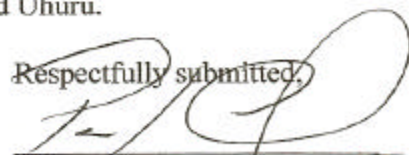
Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure ("Fed.R.Civ.P."), please enter the default of defendant Jihad Uhuru for failure to plead, appear or otherwise defend this action.

This request is made pursuant to Fed.R.Civ.P. 55(a) and is supported by the: declaration of Paul A. Chin, Esq., attached hereto as Exhibit 1; affidavits of service of the summons and complaint on defendant Jihad Uhuru, attached hereto as Exhibit 2; Court's "endorsed order" dated May 14, 2008, attached hereto as Exhibit 3; and the Court's docket entries for the above captioned matter, attached hereto as Exhibit 4.

Finally, attached hereto as Exhibit 5, please find a proposed draft of the "Clerk's Certificate" entering default against defendant Jihad Uhuru.

Dated: New York, New York
June 20, 2008

Respectfully submitted,



Paul A. Chin, Esq. (PC 9656)
LAW OFFICES OF PAUL A. CHIN
The Woolworth Building

233 Broadway, 5th Floor
New York, NY 10279
(212) 964-8030
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

On the 20th day of June, 2008, a true and correct copy of plaintiff's REQUEST TO ENTER DEFAULT, and the documents and exhibits attached thereto, was served via certified mail, return receipt requested, postage pre-paid, and placed in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York, to:

Jihad Uhuru
2324 Fountainhead Cir.
Conyers, GA 30013
Pro-se Defendant

6-20-08
Date



Paul A. Chin, Esq. (PC9656)
LAW OFFICES OF PAUL A. CHIN
The Woolworth Building
233 Broadway, 5th Floor
New York, NY 10279
(212) 964-8030
Attorneys for Plaintiff

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CARL WEBER	:	CASE NO.: 08 Civ 0983 (JGK)
	:	
Plaintiff	:	
	:	
vs.	:	(ECF Case)
	:	
JIHAD UHURU	:	
	:	
Defendant	:	
	:	

**DECLARATION OF PAUL A. CHIN IN SUPPORT OF PLAINTIFF'S REQUEST
TO ENTER DEFAULT AGAINST DEFENDANT JIHAD UHURU**

PAUL A. CHIN, declares as follows:

1. I am member of the Bar of the United States District Court for the Southern District of New York; I am the attorney of record for Carl Weber, plaintiff in the above referenced matter (hereinafter "Plaintiff"); and I have personal knowledge of the facts set forth in this declaration.

2. Examination of the Court files and records in this action shows that Plaintiff on January 30, 2008 filed his complaint against defendant Jihad Uhuru (hereinafter "Defendant") with this Court. *See, Exhibit 4 "Court's Docket Entries at #1."*

3. Examination of the Court files and records in this action shows that Defendant was served with a copy of a summons and Plaintiff's complaint on March 25, 2008 and March 28, 2008. *See, Exhibit 2 "Affidavits of Service;" and Exhibit 4 "Court's Docket Entries at #2."*

4. Examination of the Court files and records in this action shows that, on or about May 5, 2008, Defendant wrote to the Court requesting an extension of time to file an answer to Plaintiff's summons and complaint; and that the Court, on May 14, 2008,

extended Defendant's time to respond to Plaintiff's summons and complaint to June 13, 2008. *See, Exhibit 3 "Court's Order;" and Exhibit 4 "Court's Docket Entries at #4."*

5. Examination of the Court files and records in this action shows that Defendant failed to respond to Plaintiff's summons and complaint by June 13, 2008, as required by the Court's order. *See, Exhibit 4 "Court's Docket Entries."*

6. Examination of the Court files and records in this action shows that defendant has failed to enter his appearance in this action and has failed to plead or otherwise defend this action. *See, Exhibit 4 "Court's Docket Entries."*

7. This declaration is executed by me in accordance with Rule 55(a) of the Federal Rules of Civil Procedure for the purpose of enabling Plaintiff to obtain an entry of default against Defendant for Defendant's failure to plead or otherwise respond to Plaintiff's summons and complaint by June 13, 2008, as required by the Court's order dated May 14, 2008, and for Defendant's failure to appear or otherwise defend this action.

I declare under the penalty of perjury that the foregoing is true and correct.
Executed on June 20, 2008.



Paul A. Chin, Esq. (PC9656)
LAW OFFICES OF PAUL A. CHIN
233 Broadway, 5th Floor
New York, NY 10279
(212) 964-8030
Attorneys for Plaintiff

EXHIBIT 2

STATE OF New York JURISDICTION OF: Southern District

Carl Weber
Plaintiff,

Case Number 08 CV 0983

Vs.

Jihad Uthman
Defendant/Respondent,

AFFIDAVIT OF DUE DILIGENCE
WHERE SERVICE CANNOT BE PERFECTED

Personally appeared before me, Coleman M. Nelli, the undersigned officer duly authorized to administer oaths, first being duly sworn, on oath deposes and states that he/she is not related to any party, has no interest in the above styled case, is not a convicted felon, is a resident of Georgia, and is a native born citizen of the United States of America.

Affiant further states that he/she attempted to serve the Defendant/Respondent; however, the defendant could not be served or would not provide an opportunity for service to be perfected despite the due diligence of the process server.

Service was attempted at the following location(s) on the date(s) and time(s) given with results as listed:

At: 5331 O'Mara Ln. Stone Mtn Ga 30085
Date: 032508 Time: 715 am/pm Result: No one home

At: _____

Date: _____ Time: _____ am/pm Result: _____

At: _____

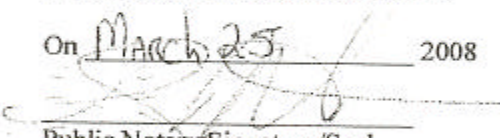
Date: _____ Time: _____ am/pm Result: _____

Additional Comments:

Coleman Martinelli
Private Process Server
Martinelli Investigations, Inc

Sworn to and Subscribed before me

On March 25 2008


Public Notary Signature/Seal

DOUG MARTINELLI
NOTARY PUBLIC, GWINNETT COUNTY GEORGIA
MY COMMISSION EXPIRES JULY 21, 2011.

UNITED STATES DISTRICT COURT/SOUTHERN DISTRICT OF NEW YORK Attorney: PAUL A. CHIN, ESQ.

CARL WEBER

Plaintiff(s)

- against -

Index # 08 CV 0983 (KOELTL)

JIHAD UHURU

Purchased January 30, 2008

Defendant(s)

AFFIDAVIT OF SERVICE

STATE OF Georgia : COUNTY OF Gwinnett ss:

BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION, OVER THE AGE OF EIGHTEEN YEARS AND RESIDES AT 234 Clarke St. Lawrenceville Ga 30045

That on March 25, 2008 at 08:15 PM at

2400 AVEBERRY COURT, SE
CONYERS, GA 30013

deponent served the within SUMMONS AND COMPLAINT AND DEMAND FOR JURY TRIAL on JIHAD UHURU therein named,

AFFIXING
TO DOOR

by affixing a true copy of each to the door of said premises, which is the Defendant's dwelling house/usual place of abode within the state. Deponent was unable, with due diligence to find the Defendant or a person of suitable age and discretion, thereat, having called there on:

February 2, 2008 AT 7:45 PM

February 6, 2008 AT 8:15 AM

March 25, 2008 AT 8:15 PM

ADDRESS VERIFIED BY ATTORNEY'S RECORDS ONLY.

That at the time of such service deponent knew the person so served as aforesaid to be the same person mentioned and described as the Defendant in this action.

Sworn to me on: 03/20/08

Notary:



DOUG MARTINELLI

NOTARY PUBLIC, GWINNETT COUNTY GEORGIA
MY COMMISSION EXPIRES JULY 21, 2011.

Coleman Martinelli

Server:

Coleman Martinelli

Invoice #: 456167

UNITED STATES DISTRICT COURT/SOUTHERN DISTRICT OF NEW YORK Attorney: PAUL A. CHIN, ESQ.

CARL WEBER

Plaintiff(s)

- against -

Index # 08 CV 0983 (KOELTL)

JIHAD UHURU

Defendant(s)

Purchased January 30, 2008

Mail Date March 28, 2008

AFFIDAVIT OF MAILING

STATE OF NEW YORK: COUNTY OF NEW YORK ss:

JONATHAN GRABER BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION, OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on March 28, 2008 at a regular depository maintained by the United States Post Office deponent mailed a copy of the SUMMONS AND COMPLAINT AND DEMAND FOR JURY TRIAL to JIHAD UHURU at

2400 AVEBERRY COURT, SE
CONYERS, GA 30013

Copy was mailed REGULAR FIRST CLASS MAIL, and was marked personal & confidential and not indicating on the outside thereof, by return address or otherwise that said notice is from an attorney or concerns an action against the person to be served.

Sworn to me on: March 28, 2008

JOEL GRABER
Notary Public, State of New York
No. 02GR4699723
Qualified in New York County
Expires February 10, 2010

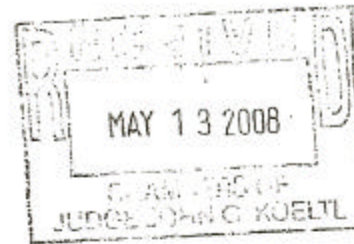
JOSEPH KNIGHT
Notary Public, State of New York
No. 01KN6178241
Qualified in New York County
Expires November 26, 2011

JONATHAN GRABER
Notary Public, State of New York
No. 01GR6156780
Qualified in New York County
Expires December 4, 2010

JONATHAN GRABER
License #: 1102041
Invoice #: 456167

EXHIBIT 3

Jihad Uhuru
2324 Fountainhead Cir.
Conyers, GA. 30013
5-5-08



Dear Honorable Judge Koeltl

I wrote to you explaining that I hadn't been properly served the summons for case number 08 CV 0983. The address it was sent to has been vacant since the first of January, 2008. The United States postal service can verify this as well as my former neighbors. As I stated, I went by the residence at 2400 Aveberry Ct. Conyers GA. 30013, which again, I hadn't lived or no one else has lived there since January 2008. At the front porch was a rain weathered summons, as stated previously. In a letter from your office, it was explained that an answer was due on April 14, 2008, I did not even see the summons until April 11, 2008. And when I did, I wasted no time in contacting your office, and was told to write a letter explaining the situation, which I did. For these reasons which are due to improper service of summons 08 CV 0983, I am requesting an extension on filing an answer to the courts for summons 08 CV 0983. Thank you for your patience.

Sincerely

Jihad Uhuru

*I will respond to
the summons and complaint
attend to June 13, 2008.*

So ordered.

5/14/08

43.5.5

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 5/14/08

EXHIBIT 4

ECF

U.S. District Court
United States District Court for the Southern District of New York
(Foley Square)
CIVIL DOCKET FOR CASE #: 1:08-cv-00983-JGK

Weber v. Uhuru
Assigned to: Judge John G. Koeltl
Demand: \$500,000
Cause: 28:1331 Fed. Question

Date Filed: 01/30/2008
Jury Demand: Plaintiff
Nature of Suit: 320 Assault Libel
& Slander
Jurisdiction: Federal Question

Plaintiff**Carl Weber**represented by **Paul A Chin**

Law Offices of Paul A. Chin
The Woolworth Building
233 Broadway
5th Floor
New York, NY 10279
(212) 964-8030
Fax: (212) 964-2575
Email: lawyerchin@aol.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant**Jihad Uhuru**

Date Filed	#	Docket Text
01/30/2008	<u>1</u>	COMPLAINT against Jihad Uhuru. (Filing Fee \$ 350.00, Receipt Number 640048) Document filed by Carl Weber.(mbe) (mbe). (Entered: 01/31/2008)
01/30/2008		SUMMONS ISSUED as to Jihad Uhuru. (mbe) (Entered: 01/31/2008)

EXHIBIT 5

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CARL WEBER

Plaintiff

vs.

JIHAD UHURU

Defendant

CASE NO.: 08 Civ 0983 (JGK)

CLERK'S CERTIFICATE

(ECF Case)

I, J. Michael McMahon, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on January 30, 2008 with the filing of a Complaint, a copy of the summons and Complaint was served on defendant Jihad Uhuru pursuant to Rule 4(e)(1) of the Federal Rules of Civil Procedure and New York's Civil Practice Law & Rules §308(4) on March 25, 2008 and March 28, 2008 and proof of such service thereof was filed with the Court on April 8, 2008; that by order of the Honorable John G. Koeltl, dated May 14, 2008, defendant Jihad Uhuru was required to respond to Plaintiff's summons and Complaint by June 13, 2008.

I further certify that the docket entries for this action indicate that defendant Jihad Uhuru did not respond to Plaintiff's summons and Complaint by June 13, 2008, as required by the Court's order dated May 14, 2008; that defendant Jihad Uhuru has not pled or otherwise responded to Plaintiff's summons and Complaint and has not appeared in this action. The default of defendant Jihad Uhuru is hereby noted.

J. MICHAEL McMAHON
Clerk of the Court

Dated: 6/20/08

By: 
Deputy Clerk